IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE

CRIMINAL APPLICATION NO.540 OF 2006

In

CRIMINAL APPEAL NO.495 OF 2006

Rafiq Abbas Inamdar alias Shaikh : Applicant

(Orig.Accused No.10)

V/s.

The State of Maharashtra : Respondent

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Mr.U.R.A. Surve for the applicant.

Mr.V.B.Konde-Deshmukh, Addl. Public Prosecutor for the State.

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CORAM : D.G.DESHPANDE & S.A.BOBDE,JJ.

DATE : JULY 20, 2006.

P.C.

1. Heard the learned Advocate for the applicant-accused No.10 who has filed this application for bail. He has been convicted along with others under sections 147 read with 149, 148 read with 149, 364 read with 149, 302 read with 149 of the I.P.C. as also under section 25(3) of the Arms Act. It is the contention of the Advocate for accused No.10 that the offence under section 120B has not been proved against this accused and he was not a member

of either of the groups. He was simply a rickshaw driver. Our attention has been drawn to para 42 of the judgement wherein the trial Court has observed as under:-

> "It is accused no.10 who was plying said auto rickshaw. Therefore, mere presence of accused no.10 along with accused nos.1 to 9 during entire operation amounts to member of unlawful assembly."

2. In view of this fact and also of the fact that he was on bail during trial, the applicant (accused No.10) be released on bail on P.R. bond of Rs.7,500/- (Rupees Seven Thousand Five Hundred only) with one or two solvent sureties in the like amount. He should attend the concerned police station once a month, in the first week of every month, till the appeal is disposed of. The substantive sentence in respect of accused No.10 is suspended pending the appeal. Fine, if any, should be paid before he is released on bail.

3. The Criminal Application is disposed of.

D.G. DESHPANDE, J.

S.A. BOBDE, J.